

STATEMENT BY CONGRESSMAN HENRY A. WAXMAN
BEFORE THE ADVISORY COMMISSION ON CONSUMER PROTECTION AND QUALITY
IN THE HEALTH CARE INDUSTRY
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Good morning. I am pleased to have the opportunity to appear before you today.

As many of you know, I am usually on the other side of the dais. I am currently the Ranking Member of the Government Reform Committee in the House. And I am also a senior member on the Committee on Commerce, where I previously served as Chairman, and then Ranking Member, of the Subcommittee on Health and the Environment.

All in all, a primary focus of my Congressional career has been health care, and access to quality care for all Americans, particularly vulnerable populations like the low-income, the aged, and the disabled.

That is why I welcome the

establishment of this panel, with its broad and distinguished membership. I believe you meet at a critical time for our health care system, and the contribution you can make is enormous.

FOCUS ON CONSUMER PROTECTION AND QUALITY

I view these times as critical because in both our public and private health insurance programs, we are seeing the rapidly increased use of managed care, including forms of delivery as varied as traditional HMO's, PPO's, PSO's, hospital and physician based plans. These plans are in fierce price competition with each other, as well as with the fee-for-service system.

We all like to think that plans are also in vigorous competition in regard to quality and consumer satisfaction, but we all know that achieving this kind of competition is not always easy or effective.

So I see the challenge before us is to continue appropriate efforts to control costs without sacrificing quality and appropriate care.

That I know is your mission, and it is a large one.

FOCUS ON MEDICAID

But what I want to urge on you today is this: give your immediate priority and attention to issues of quality for Medicaid beneficiaries.

I am afraid we are in danger of accepting in this country that it is alright to have lower quality and consumer protections for the low-income population covered by Medicaid.

I feel very strongly that this is wrong. If anything, the standards and protections for the Medicaid population ought to be higher, because they are more vulnerable to underservicing.

But at a minimum, the Medicaid population should have the benefit of the same quality and consumer protections as everybody else.

Clearly, there are certain features of Medicaid and the population it serves that require us to pay special attention to it.

First, the Medicaid population is rapidly being moved into managed care. CBO estimates that about 25 percent of the nation's 44 million Medicaid beneficiaries--mostly women and children--are enrolled in managed care today. And CBO projects that Federal spending on Medicaid managed care will rise from \$7 billion to \$17 billion over the next five years.

Second, in many cases, this enrollment in managed care is happening without a choice being made by the beneficiary as to whether they prefer managed care.

The budget reconciliation bill that is now moving through the Congress is likely to accelerate this trend. In the name of state flexibility, the legislation would give states the authority to require Medicaid beneficiaries to enroll in managed care plans and to restrict the choice of plans.

It is quite possible that the only choice offered will be between one of two plans.

That is the standard suggested by the Administration in legislation. And that was the standard included by the majority in the bill we recently marked up in Committee.

I was successful in passing an amendment which would open Medicaid to all qualified managed care organizations that would accept the payment terms of the States, and I hope to see that provision survive. But it will be an uphill battle. Certainly we have to recognize the very real possibility that Medicaid beneficiaries may end up with only a choice of two plans.

Further, those plans may very well be--in fact probably will be--plans that serve only the Medicaid population. The reconciliation bill repeals the standard that requires plans to have 25% enrollment of private-pay persons.

So the market effect, if you will, the need to maintain consumer satisfaction and quality protections to attract private-pay patients will be gone. We know that that rule, the so-called 75-25 rule, was always only an imperfect proxy measure for quality, and was waived more often than honored--but the fact remains that even the pretense of appealing to private pay patients is now gone.

Additionally, the Medicaid population is disproportionately made up of disabled and special needs populations. These are among the most costly populations in the Medicaid program, and fiscally-pressed States will have strong incentives to enroll them in managed care plans for cost containment purposes.

Yet they are also people for whom managed care may not be appropriate, at least without numerous special protections.

For that reason, I supported an amendment to the budget reconciliation bill to exempt special needs children from mandatory enrollment in managed care. Since there is support in the Senate as well, I hope this will survive in the final legislation.

However, States will still have the authority to require disabled adults to enroll in managed care plans, raising challenging quality issues.

CONCLUSION

We cannot ignore the unpleasant political reality that it often is easier for people to accept a situation for poor people that they wouldn't accept for the general population or Medicare. If we allow this approach to quality and consumer protection issues for the Medicaid population, we will make a tragic mistake.

This Commission can be a powerful force to assure that this does not happen.

You have a big job to do. And I leave you today with the plea that you focus first on the population that is at the mercy of a rapid and forced move into managed care.

Thank you.